

## Leading Requirements of HB 706

### Electronic Health Records – Regulation and Reimbursement

The Maryland General Assembly passed House Bill 706 (HB 706), *Electronic Health Records: Regulation and Reimbursement*, which is currently pending Governor Martin O'Malley's signature. The bill is aimed at expanding the adoption of electronic health records (EHRs) through incentives from state-regulated payers to providers to use certified EHRs that are capable of connecting to a health information exchange (HIE). The two state agencies named in the bill are the Maryland Health Care Commission (MHCC or Commission) and the Health Services Cost Review Commission (HSCRC or Commission). HB 706 requires the MHCC and HSCRC to complete a number of activities in support of the legislation.

Prior to October of this year, the Commissions are required to designate a HIE for the private and secure exchange of electronic health information. In April, the Commissions released a Request for Application (RFA) for a *Consumer Centric Health Information Exchange for Maryland*. Multi-stakeholders interested in responding to the RFA have until June 12<sup>th</sup> to submit their response. The Commissions expect to identify a multi-stakeholder group that can implement a sustainable HIE with sound privacy and security policies, and a robust architecture in early August.

The MHCC is required to submit a report to the Senate Finance and the House Health and Government Operations Committees prior to the end of the year updating them on the progress in establishing the HIE; any changes in state laws that are necessary to protect the privacy and security of health information stored in EHRs or exchanged through the HIE and to provide for the effective operations of the HIE; identify any actions that are necessary to align funding opportunities of the Federal *American Recovery and Reinvestment Act of 2009* (ARRA) with other state and private initiatives; and propose language for the regulation. The MHCC plans to assemble a series of stakeholder advisory meetings with the multi-stakeholder group awarded the RFA to deliberate on the content of the report this summer.

The MHCC plans to gain input from stakeholder advisory meetings in the development of the regulations that must be adopted by the Commission prior to September 2011. Provider incentives in the regulations will be broad and may result in increased reimbursement for specific services; lump sum payments; gain-sharing arrangements; rewards for quality and efficiency; in-kind payments; and other items or services to which a specific monetary value can be assigned. The legislation enables the requirements to impact self-insure health benefits plans similar to state-regulated payers if Federal law is amended. The regulations for incentives will include disincentives that go into effect after January 1, 2015 for providers that use an EHR which is not certified by a national certification organization, designated by the MHCC, and lacks the capability of connecting to the statewide HIE.

The HSCRC, in consultation with hospitals, payers, and the Center for Medicare and Medicaid Services (CMS) is required to assure that hospitals in the state receive payments and implement any changes in hospital rates required by CMS to comply with ARRA. The Department of Health and Mental Hygiene is required to collaborate with the MHCC in developing a mechanism to assure that providers participating in the Maryland Medical Assistance Program receive payments for the adoption of EHRs under ARRA. The MHCC is supposed to identify management service organizations (MSOs) as that hosts the technology as an alternative for EHRs. MSOs allow providers to subscribe to an organization that hosts the technology rather than adopting the traditional client server model where the software is maintained at the provider's office. In accordance with the legislation, the MHCC anticipates applying for Federal grants and loans to help subsidize the use of the MSO by health care providers.

The MHCC is required to update the Governor and the General Assembly by October 2012 on the progress achieved toward the adoption and meaningful use of EHRs by providers and suggest any changes in state laws necessary to achieve optimal adoption and use. HB 706 is well timed and aims to improve health care quality, prevent medical errors, and reduce health care costs through the widespread use of EHRs and the ability for providers to exchange patient information electronically.